

Exhibit 70

COPY

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MIYANO MACHINERY USA,,)
Inc.,)
)
 Plaintiff,)
) CIVIL ACTION
-vs-) NO. 08 C 526
)
)
MIYANOHITEC MACHINERY,)
INC., THOMAS ("TOM") MIYANO)
a/k/a TOSHIHARU MIYANO and)
STEVEN MIYANO, a/k/a)
SHIGEMORI MIYANO,)
)
)
 Defendant.

DEPOSITION OF AKIHIKO MINEMURA

MAY 19, 2008 - 10:15 A.M.

The Deposition of AKIHIKO MINEMURA,
taken pursuant to the Rules of Civil Procedure
for the United States District Courts pertaining
to the taking of depositions, taken before Jerry
Satterlee, a Certified Shorthand Reporter within
and for the State of Illinois, at 200 West Adams
Street, Suite 2850, Chicago, Illinois.

1 Q. Are you aware of any instance -- you
2 being MMU -- are you aware of any instance of any
3 person in the machine tool trade being confused
4 between MiyanoHitec and MMU?

5 MR. MANZO: I would just like to hear it
6 repeated.

7 (THE QUESTION WAS READ.)

8 MR. MANZO: Thank you.

9 MS. LEWIS: Excuse me. You said are you
10 aware of any instance.

11 (THE QUESTION WAS RETRANSLATED.)

12 MS. LEWIS: I am sorry again. Excuse me.

13 MR. BAKER: Not at all. Go right ahead.

14 MS. LEWIS: You mean that you Mr. Minemura
15 or MMU?

16 MR. BAKER: Company.

17 MR. MANZO: He said the company.

18 MS. LEWIS: He didn't say the company.

19 THE INTERPRETER: When the reporter reread,
20 that is the way it was phrased.

21 MR. BAKER: I heard the word MMU in the
22 translation.

23 BY THE WITNESS:

24 A. I had heard that there was an inquiry

1 from research company about whether MiyanoHitec
2 and Miyano are related.

3 BY MR. BAKER:

4 Q. Who did you hear it from?

5 A. An employee of MMU. Senior
6 receptionist, a female receptionist called Ann.

7 Q. What is Ann's last name?

8 BY THE WITNESS: (IN ENGLISH)

9 A. I am sorry, I couldn't remember.

10 BY THE WITNESS: (THROUGH INTERPRETER)

11 A. I can't say right now. I mean I
12 can't tell you because I don't remember exactly.

13 BY MR. BAKER:

14 Q. Ann is a receptionist for MMU?

15 A. She is both receptionist and also
16 sales assistant.

17 Q. Could you find her name out over the
18 lunch hour?

19 A. Yes, I can find that out.

20 Q. Thank you.

21 What did Ann tell you?

22 A. To be precisely, the receptionist --
23 the fact such an inquiry was reported to Hank
24 Marchionne. Hank Marchionne told me.

1 Q. What did Hank tell you?

2 A. I heard that there was an inquiry
3 from research company to find out there was any
4 relationship between MiyanoHitec and the Miyano.

5 Q. What was the name of the research
6 company?

7 A. Dun and Bradley, I believe.

8 Q. Could it have been Dun & Bradstreet?

9 A. Yes.

10 Q. Are you aware of any time MMU has ever
11 sold anything to Dun & Bradstreet?

12 MS. LEWIS: Excuse me. You said are you
13 aware? I think the question was --

14 MR. BAKER: Thankfully, that is why he
15 writes it down. If you want him to read it back
16 --

17 MS. LEWIS: Are you aware?

18 (THE QUESTION WAS READ.)

19 BY THE WITNESS:

20 A. You mean a product?

21 BY MR. BAKER:

22 Q. Or service?

23 A. I believe no.

24 Q. Are you aware of Dun & Bradstreet

1 Q. If you will turn so that you can look
2 at the first page of 95 and the second page of 96,
3 do you see a difference between the two logos in
4 the upper left-hand column of MMU 15780 and MMU
5 15849?

6 A. Yes, there is.

7 Q. Isn't it true that in the upper left
8 of MMU 15781 there is no triangle logo?

9 A. Based on this copy, that is correct.

10 Q. And then looking at the upper left of
11 MMU 15849, I know it is not a great copy, but do
12 you see an R in a circle next to the winged M on
13 that triangle?

14 A. Yes.

15 Q. Is that true that Miyano Machinery USA
16 has a registered trademark that is identical to
17 the one depicted here?

18 A. I believe that both symbols are
19 registered.

20 Q. When you say both, do you mean -- I am
21 only referring to 15849. What do you mean by
22 both?

23 A. I believe that both symbols are
24 registered.

1 Japanese.

2 BY MR. ALEX:

3 Q. I would like to present you two more
4 documents. Directing your attention to Exhibit --
5 The first document has been marked as Exhibit 98
6 and the second one has been marked as Exhibit 99,
7 and right now I am directing your attention to
8 Exhibit 98. Do you recognize that document?

9 A. Yes.

10 Q. What is it?

11 A. It is called a service report, a
12 document that we submit after we provide services
13 to customers.

14 Q. Is there a date on the service report?

15 A. Yes.

16 Q. What is the date?

17 A. I believe it is March 26th, 2002.

18 Q. Do you recognize what appears up at
19 the top left of the service report?

20 A. Yes.

21 Q. What do you see?

22 A. It is a triangle trademark for
23 Miyano.

24 Q. Have you ever seen a service report

1 that does not have the triangle winged M
2 trademark?

3 A. Not as far as I can remember.

4 Q. So as far as you know, this form that
5 is used for purposes of identifying services
6 rendered by MMU is the only form used as a service
7 report?

8 A. Yes, as far as I know.

9 Q. I would like to direct your attention
10 to the next document which has been marked as
11 Exhibit 99. Do you recognize that document?

12 A. Yes.

13 Q. And what is that?

14 A. It is a document agreement that is
15 given to our customers either before or after
16 sale.

17 Q. Can I ask you to turn to the second
18 page of the document, and what do you see on the
19 second page?

20 A. The signature by Hank Marchionne who
21 is one of our company's managers.

22 Q. What else do you see?

23 A. A date.

24 Q. And what date is that?

1 A. March 26th, 2002.

2 Q. And what other information do you see
3 on that form?

4 A. A delivery date.

5 Q. And what else?

6 A. Model name of the machine.

7 Q. And what is the model of the machine?

8 A. LZ02R.

9 Q. Is there any other information on this
10 form?

11 A. Serial number of machine.

12 Q. What is the serial number?

13 A. LZ2R0006.

14 Q. Directing your attention briefly back
15 to Exhibit 98, do you see whether or not there is
16 a machine model identified on that form?

17 A. Yes. The serial number.

18 Q. I was speaking of the machine model
19 number. And what is the machine model number?

20 A. The machine model is not machine
21 model, it is machine's ID number.

22 Q. What is that?

23 A. It is LZ2R0006.

24 Q. What appears directly to the right of

1 contents of the form?

2 BY MR. ALEX:

3 Q. The format.

A. Of course it is our own format.

5 Q. If the services are rendered by the
6 authorized dealer, those services are rendered on
7 behalf of Miyano Machinery USA?

8 MR. BAKER: Leading.

9 MR. FRANCISSEN: Form.

10 THE INTERPRETER: Could you read back the
11 question.

12 | (THE QUESTION WAS READ.)

13 BY THE WITNESS:

14 A. That is correct.

15 BY MR. ALEX:

16 Q. And I guess one last point with
17 respect to Exhibit 99. What do you see up at the
18 top?

19 A. Our triangle mark and the name Miyano
20 Machinery Incorporated.

21 Q. Next to the triangle mark, what do you
22 see?

23 A. The name Miyano Machinery
24 Incorporated.

1 Q. Is there an R in a circle next to the
2 triangle winged M?

3 A. Since the copy is not very clear, I
4 can't tell to say for sure, but it appears to be
5 a registration mark.

6 Q. Do you see that very same symbol on
7 page two of Exhibit 99?

8 A. Yes. This is clearer.

9 Q. I want to ask you more generally about
10 the manner in which this form might be presented
11 to the customer.

12 A. For the first time customers, for the
13 customers who bought for the first time, we
14 present this document as part of the explanation,
15 sales explanation. Sometimes even if it is not
16 first time sales occasionally we might explain
17 this document to the customers.

18 MS. LEWIS: Excuse me. When? You didn't
19 say when.

20 BY THE WITNESS:

21 A. Before the sale.

22 MS. LEWIS: Is closed.

23 BY THE WITNESS:

24 A. Is closed.

1 BY MR. ALEX:

2 Q. I want to ask you specifically with
3 first time customers. With first time customers
4 is it your belief that they will see --

5 MR. MANZO: (Indicating.)

6 (A conference was had between

7 Mr. Manzo and Mr. Alex.)

8 BY MR. ALEX:

9 Q. Describe for me how a first time
10 customer might see this form?

11 A. That I believe to be that we would
12 actually explain the warranty policy and show
13 them the document.

14 MR. KARTON: Keep your voice up, please.

15 BY THE WITNESS:

16 A. I believe that we would first explain
17 our warranty policy to the customers and show the
18 document.

19 BY MR. ALEX:

20 Q. Is the warranty document shown to the
21 customer before the sale occurs?

22 MR. BAKER: Form.

23 BY THE WITNESS:

24 A. Yes.

1 warranty policy for those machines?

2 A. Yes.

3 Q. Miyano Machinery USA is the party that
4 stands behind a Miyano Machinery USA machine when
5 it is sold in the United States?

6 A. Yes.

7 Q. I want to return briefly to our
8 discussion of Exhibit 99. Do you recall earlier
9 when you were discussing how this document might
10 be presented to a new customer in connection with
11 the sale of a Miyano machine in the U.S.?

12 A. You mean today?

13 Q. Yes.

14 A. Yes.

15 Q. You explained how the warranty policy
16 might be presented to a new customers. What about
17 existing customers? How was it presented to
18 existing customers that may purchase a Miyano
19 machine tool?

20 A. I am not in a position to confirm all
21 the details about all sales, but I believe case
22 by case.

23 Q. Do you know whether or not the
24 warranty policy is presented to an existing

1 customer that purchases a Miyano machine tool?

2 MR. BAKER: Form.

3 BY THE WITNESS:

4 A. Basically, it should be presented to
5 them.

6 BY MR. ALEX:

7 Q. And is it your belief that the
8 warranty policy is presented to the customer
9 before the sale is closed?

10 A. Yes.

11 Q. Mr. Minemura, where were you born?

12 A. 1958.

13 Q. Not when but where?

14 A. The city of Ueda in prefecture of
15 Naga in Japan.

16 Q. And you are a Japanese Citizen?

17 A. Yes.

18 MR. BAKER: No further questions.

19 FURTHER EXAMINATION

20 BY MR. BAKER:

21 Q. Just to be clear then, you just
22 testified that MMU allows Mectron to use the
23 Miyano name on machine tools in the U.S., correct?

24 THE INTERPRETER: Could you read back the

1 A. I will try.

2 Q. I want to turn your attention quickly
3 to Exhibit 98 and I would also like to take a look
4 at Exhibit 94.

5 Again, I want to make sure I
6 understand. As you look at Exhibit 98 and Exhibit
7 99 where the triangle logo appears, is it your
8 testimony that the triangle logo that appears once
9 on Exhibit 98 and twice on Exhibit 99 is identical
10 to the specimen shown on MMU 148?

11 THE INTERPRETER: I am sorry, could you
12 read back the question.

13 (THE QUESTION WAS READ.)

14 BY THE WITNESS:

15 A. You mean that and this?

16 BY MR. BAKER:

17 Q. Correct.

18 And by that and this, the witness is
19 directing his fingers to Exhibit 98 and MMU 148
20 and then from Exhibit 99 to MMU 148?

21 A. I believe that it is our
22 understanding, yes, identical.

23 Q. And Exhibit 98 has a signature in the
24 bottom right. It appears to be a customer